

LAND USE AND ZONING COMMITTEE

September 25, 2008

The Land Use and Zoning Committee hereby find and determine that all formal actions were taken in an open meeting and that all deliberations of the Land Use and Zoning Committee, which resulted in formal action, were taken in a meeting open to the general public, in full compliance with applicable legal requirements of Section 121.22 of the Ohio Revised Code.

The meeting was called to order at 6:55 p.m.

The following members were present: Messrs. Bodnar, Hazel, Hullihen, Morse, Terriaco, Urbanski, Welch, and Messes. Ross and Diak. Staff: David Radachy

Mr. Radachy opened the meeting and introduced Vince Urbanski and stated that Mr. Urbanski was replacing Howard Haycox.

Leroy Township Text Change Section 31 Riparian Setbacks

Staff introduced the new language that would create riparian setbacks. Staff stated that riparian setbacks would create a buffer of 25 to 120 feet along the streams to:

1. Preserve and conserve the quality and free flowing condition of designated watercourses, protect groundwater recharge and ground (well) water quality in the interest of promoting and protecting public health and safety.
2. Reduce flood impacts by absorbing peak flows, slowing the velocity of flood waters, and regulating base flow.
3. Assist in stabilizing the banks of designated watercourses, reduce stream bank erosion, and the downstream transport of sediments eroded from such watercourse banks.
4. Reduce pollutants in designated watercourses during periods of high flows by filtering, settling, and transforming pollutants already present in such watercourses.
5. Reduce pollutants in designated watercourses by filtering, settling, and transforming pollutants in runoff before they enter such watercourses.
6. Provide designated watercourse habitats with shade and food.
7. Reduce the presence of aquatic nuisance species to maintain a diverse aquatic system.
8. Provide riparian habitat with a wide array of wildlife by maintaining diverse and connected riparian vegetation.
9. Minimize encroachment on designated watercourses and limit the potential need for invasive measures that may otherwise be necessary to protect buildings, structures, and uses as well as to reduce the damage to real property and threats to public health and safety within the affected watershed.

Staff explained the purpose of the riparian setbacks to the committee. He stated that the riparian setbacks are 25 feet, 75 feet or 120 feet on either side of the stream. This setback is

meant to stay in its natural condition is to protect the aquatic wildlife, reduce soil erosion, reduce pollutants from getting into the stream and to help reduce flooding down stream. Staff stated that this regulation would be required on streams of any size that have defined bed and bank. The smaller streams, watersheds that are less than one square mile, would have 25 feet of either side. Stream watersheds between one square mile and 20 square miles would have 75 foot setbacks and anything over 20 square miles would have a 120 foot setback. Staff showed a map of Leroy Township and its streams. The setbacks were marked by different colors on the map.

Staff had a few suggestions on these regulations. In section 31.1.7 D, it states that fences and walls are allowed in the riparian setbacks. Fences and walls should not be allowed inside the flood plain of the stream, which is inside the riparian setback. Staff also suggested that the township have language that would allow the zoning inspector to require the riparian be marked by a surveyor if he or she is unable to determine the location when they do their inspection. Staff's suggested language is: "Upon entering the property, if the zoning inspector and/or other Township's agents are unable to determine if the riparian setback is affected, they may require the owner to have riparian setback marked by a surveyor if the construction, land development or soil disturbing activities are within 20 feet of the riparian setback. This would be added to section 31.1.9.C.

Finally staff stated that, with the addition of these regulations, there should be changes made to other sections of the Zoning Resolution. In section 13.8, zoning certificate plot plan, riparian setbacks should be shown on the plot plan. Riparian setbacks should also be required to be shown on the site plan drawing in section 30.04.

Some of the committee members had questions about the categories of wetlands concerning the difference between classes one, two and three. Staff stated that these were OEPA standards and that class one was a low quality wetland and class three was the highest quality. Staff also stated that wetlands can be mitigated, or filled in, so the setbacks would only be placed on wetlands that remained.

Some of the committee members questioned if the property owner was going to lose the land. Staff stated that this was a setback and the landowner would continue to own it, but they would be prohibited from some activities in that area, just like they are prohibited from some activities in the front setback. There were also some questions on Lake Metroparks role in protecting the Grand River and its major tributaries.

The committee brought up the fact that structural storm water management practices were prohibited from the riparian setbacks. This gave them concerns. Staff stated that usually, a subdivision would detain water and then release it into a stream, sometimes using spreads so the water slowly enters the stream. Not allowing structural storm water management practices in the riparian setbacks would prohibit this practice.

There was not a definition of structural storm water management practice. That section was very vague and need some definition. The committee suggested that the township talk to the Lake County Storm Water Department before they accept this chapter.

The Committee also would like to see the language be cleaned up for punctuation and grammar.

Mr. Bodnar made a motion to recommend the text changes with the suggestions of: 1. removing walls and fences from the flood plain; 2. add language that would allow the zoning

inspector to have the riparian setback marked in areas that are within 20 feet of the soil disturbing activities, 3. Require that the riparian setbacks be shown on the plot plan and the site plan; 4. Define structural storm water management practice; 5. Review if prohibiting structural storm water management practices is the proper thing to do; and 6. Check grammar and punctuation. Mr. Welch seconded the motion.

All voted "Aye".
Motion passed.

Perry Township Text Change to Section 213, Conditional Use

Staff stated that Perry Township was adding Bed and Breakfasts to the conditional use section of their zoning resolution. They are also creating conditions for bed and breakfasts. Staff stated that Perry was the third township in Lake County to add this as a conditional use, both Concord Township and Leroy Township have it as a use.

Staff had some suggestions: 1. The Township should require "A floor plan designating present location, exits, and evacuations routes shall be posted in each room"; 2. All bed and breakfasts should be ADA compliant; and 3. Provide an area for deliveries and dumpsters.

A member of the committee stated this language was meant to be enforced on existing homes that are converted into Bed and Breakfasts, so adding language to require area for dumpsters and deliveries would take away from the neighborhood character in which the Bed and Breakfasts are located. Staff stated that there was no language limiting the size of the Bed and Breakfasts and no language stating that these are limited to existing structures. Someone could build a 10,000 square foot, 10 bedroom Bed and Breakfast and, with a structure that size, you would need areas for deliveries and dumpsters.

The committee also discussed who should be inspecting the bed and breakfasts. This would include the Lake County General Health District and the Perry Joint Fire District.

Mr. Terriaco made a motion to recommend the following suggestions to the text amendment: 1. The Township should require "A floor plan designating present location, exits, and evacuations routes shall be posted in each room"; 2. All Bed and Breakfasts should be ADA compliant if the Perry Township legal advisor approves it; 3. Limit the size of the Bed and Breakfasts between 3000 to 5000 square feet; and 4. Make sure that all agencies that have approval authority are notified and have a chance to comment. Mr. Hazel seconded the motion.

All voted "Aye".
Motion passed.

Mr. Welch motion to adjourn at 7:40 P.M.